

SAINT LUCIA

DISCRIMINATION AGAINST LGBTI PERSONS AND THE DEATH PENALTY

*Amnesty International
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EXECUTIVE SUMMARY

In this submission, prepared for the Universal Periodic Review (UPR) of Saint Lucia in November 2015, Amnesty International evaluates the implementation of recommendations made in the previous UPR, assesses the human rights situation on the ground, and makes a number of recommendations to the government of Saint Lucia to address key human rights concerns.

Amnesty International notes that while Saint Lucia accepted recommendations to ratify core international human rights treaties during its previous review, there has been no further progress on the ratification of these treaties.

The organization further regrets that, despite being *de facto* abolitionist, Saint Lucia continues to retain the death penalty and has taken no step to tackle the entrenched discrimination affecting lesbian, gay, bisexual, transsexual and intersex (LGBTI) people.

FOLLOW UP TO THE PREVIOUS REVIEW

During its first UPR in January 2011, Saint Lucia accepted a number of recommendations on the ratification of core international human rights treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of Persons with Disabilities.¹ In September 2011, Saint Lucia signed the International Covenant on Civil and Political Rights and the Convention on the Rights of Persons with Disabilities; however, since then there has been no further progress and Saint Lucia has yet to ratify these treaties.

Saint Lucia also made a commitment to consider ratifying two of the Optional Protocols to the Convention on the Rights of the Child.² Amnesty International welcomes Saint Lucia's ratification of the Optional Protocol on the sale of children, child prostitution and child pornography in 2013 and of the Optional Protocol on the involvement of children in armed conflict in 2014.

Saint Lucia failed to express a clear position on recommendations to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. While Saint Lucia accepted a number of recommendations on ratification of core human rights treaties, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was not among them.³ The

¹ Human Rights Council, *Report of the Working Group on the Universal Periodic Review – Saint Lucia*, A/HRC/17/6, 11 March 2011 and its addendum, A/HRC/17/6/Add.1, recommendations 89.1 (Brazil), 89.3 (Algeria), 89.4 (United Kingdom), 89.5 (Mauritius), 89.6 (Argentina), 89.8 (Costa Rica), 89.9 (Spain), 89.10 (Maldives), 89.11 (Italy), 89.12 (Sweden), 89.13 (Portugal), 89.14 (Trinidad and Tobago), 89.15 (Poland), 89.16 (Portugal), 89.17 (France), 89.18 (Slovakia), 89.19 (Morocco), 89.22 (Morocco), and 89.23 (Australia).

² A/HRC/17/6 and A/HRC/17/6/Add.1, recommendations 89.9 (Spain), 89.10 (Maldives), 89.11 (Italy) and 89.21 (Portugal).

³ Saint Lucia accepted 9 recommendations that included a call for ratification of the Convention against Torture, but with the caveat that torture “is clearly provided for in Saint Lucia's Constitution and in other domestic legislation”. See A/HRC/17/6/Add.1,

government stated that Saint Lucia “condemns any acts of torture, cruel, inhuman or degrading treatment or punishment”, and that this commitment is reflected in the Constitution and domestic legislation.⁴ However, it has taken no steps towards becoming a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

During the previous review, Saint Lucia rejected all recommendations related to the abolition of the death penalty, including those calling for the establishment of a moratorium on executions with a view to abolishing the death penalty, commutation of all death sentences to prison terms, and ratification of the Second Optional Protocol to International Covenant on Civil and Political Rights aimed at abolishing the death penalty.⁵ Although Saint Lucia continues to be *de facto* abolitionist, the authorities have failed to show political leadership on the issue of abolition of the death penalty and, equally disappointingly, Saint Lucia has continued to vote against UN General Assembly resolutions on a moratorium on the use of the death penalty.

In response to recommendations regarding discrimination based on sexual orientation, Saint Lucia committed to “endeavor to raise public awareness, with regard to discrimination against any persons, where such discrimination occurs”.⁶ Regrettably, according to local human rights activists, the government has not carried out public-awareness campaigns to address the stigma surrounding sexual orientation and gender identity, including same-sex relations. Despite commitments made, the authorities have yet to introduce comprehensive legislation to protect LGBTI persons from discrimination and to promote respect for their human rights and dignity.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

In 2005 Saint Lucia had initiated a process of constitutional reform and in May 2013, the report of the Constitutional Reform Commission was tabled in Parliament with a series of recommendations to reform the current Constitution. So far, however, the reform process has not been further pursued despite important recommendations to strengthen gender equality and the protection of children.

recommendations 89.6 (Argentina), 89.8 (Costa Rica), 89.9 (Spain), 89.10 (Maldives), 89.11 (Italy), 89.12 (Sweden), 89.15 (Poland), 89.17 (France), 89.18 (Slovakia). Saint Lucia rejected one recommendation on the ratification of the Optional Protocol to this convention - see A/HRC/17/6/Add.1 recommendation 89.20 (Maldives).

⁴ A/HRC/17/6/Add.1, recommendation 89.6 (Argentina).

⁵ A/HRC/17/6 and A/HRC/17/6/Add.1, recommendations 89.64 (Spain), 89.65 (Slovakia), 89.66 (Italy), 89.67 (Portugal), 89.68 (Australia), 89.69 (Sweden), 89.70 (Germany), and 89.71 (France).

⁶ A/HRC/17/6 and A/HRC/17/6/Add.1, recommendations 89.92 (Spain), 89.93 (France), 89.94 (Canada), 89.95 (Slovenia), and 89.96 (United States).

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

DISCRIMINATION AGAINST LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTER-SEX PEOPLE

Consensual same-sex sexual activities between adults continue to be criminalized in Saint Lucia.⁷ The legislation is discriminatory and arbitrarily interferes with the right to privacy. It also encourages stigmatisation of LGBTI persons across the country.

During its previous review, Saint Lucia rejected recommendations to decriminalize sexual relations between same-sex consenting adults due in part to “deeply entrenched societal mores and values”.⁸ As mentioned above, Saint Lucia made a commitment to raise public awareness with regard to discrimination; however regrettably the government has failed to act on that commitment.

In its response to the recommendations, Saint Lucia also pointed to the constitutional reform which was ongoing at the time. In its 2011 report, the Constitutional Reform Commission highlighted the “high level of violence and abuse directed against persons who were not heterosexuals and who have other sexual orientations”⁹ and noted that “discrimination based on sexual orientation is unacceptable and should be addressed under well-defined ordinary legislation”.¹⁰ Local activists working for LGBTI rights continue to denounce the discrimination suffered by LGBTI people, particularly in access to employment and in the work place. The Constitutional Reform Commission similarly argued that “persons should not be fired from their jobs or excluded from employment on the basis of their sexual orientation”.¹¹

THE DEATH PENALTY

Murder is punishable by death under Articles 86 and 87(3) of the Criminal Code. The last execution in Saint Lucia was carried out in 1995, while the last death sentence known to have been imposed was handed down in 2011.¹² By the end of 2014, there was no one on death row in Saint Lucia. Mitchel Joseph was the last person under sentence of death when his death sentence was commuted to life imprisonment on 8 July 2013.¹³

Saint Lucia has observed a *de facto* abolitionist position on the use of the death penalty for 20 years. However, during the 2011 UPR the government stated that Saint Lucia was not in a position to abolish the death penalty and that the population has been calling for its revival due to an upsurge in crime.¹⁴

⁷ Saint Lucia Criminal Code, No. 9 of 2004, section 132 – 1, 2. Section 133 – 1, 2, 3, <http://www.rslpf.com/site/criminal%20code%202004.pdf> accessed on 25 February 2015.

⁸ A/HRC/17/6 and A/HRC/17/6/Add.1, recommendations 89.92 (Spain), 89.93 (France), 89.94 (Canada), 89.95 (Slovenia), and 89.96 (United States).

⁹ Constitutional Reform Commission Report – Chapter 3, Saint Lucia.

¹⁰ Constitutional Reform Commission Report – Chapter 3, Saint Lucia.

¹¹ Constitutional Reform Commission Report – Chapter 3, Saint Lucia.

¹² Amnesty International, *Death penalty in the English-speaking Caribbean* (Index: AMR 05/001/2012).

¹³ Amnesty International, *Death sentences and executions 2013* (Index: ACT 50/001/2014).

¹⁴ A/HRC/17/6, par. 38. Saint Lucia stated that “due to the upsurge in certain crime, nationals have in fact been calling for a revival of the use of the death penalty”.

In December 2014, former National Security Minister Guy Mayers stated to a newspaper that the death penalty was one way to stop criminals from committing certain types of crimes, arguing that “when someone has committed a heinous crime and they have been executed, they are no longer there to commit a crime, so how can you say capital punishment cannot prevent crime”.¹⁵ Amnesty International is concerned that such statements by high-profile politicians may encourage popular belief that the death penalty acts as a deterrent and recalls that there is no convincing evidence that the death penalty has a deterrent effect on crime. Moreover, there is a wide range of measures that the government can take to protect the population in Saint Lucia from crime and violence, including strengthening the capacity and resources of the police and judiciary.¹⁶ Since the last review, the authorities have failed to show political leadership in terms of drawing attention to the human rights issues inherent in the death penalty, as well as to promote its abolition.

Amnesty International is also disappointed to note that Saint Lucia voted against UN General Assembly resolutions 67/176 of 20 December 2012 and 69/186 of 18 December 2014 on a moratorium on the use of the death penalty. Amnesty International opposes the death penalty in all circumstances as a violation of the right to life and the ultimate cruel, inhuman and degrading punishment.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Saint Lucia to:

Ratification of regional and international human rights treaties

- Implement in full the recommendations accepted during its first UPR to ratify the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of Persons with Disabilities;
- Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Seek the assistance of the Office of the High Commissioner for Human Rights in overcoming any obstacles in ratifying international human rights treaties and ensuring full compliance with its international human rights obligations.

¹⁵ Saint Lucia Times, *Guy Mayers favours execution of Gobat Killers*, 10 December, 2014, <http://stluciatimes.com/article/guy-mayers-favours-execution-gobat-killers>, accessed 31 March 2015.

¹⁶ Amnesty International, *Saint Lucia: Amnesty International welcomes commitment to consider ratification of core human rights treaties and urges Saint Lucia to combat discrimination based on sexual orientation and to abolish the death penalty* (Index: AMR 56/001/2011).

Discrimination against lesbian, gay, bisexual, transgender and inter-sex persons

- Repeal all laws and legal provisions, including in the Criminal Code, prohibiting and punishing same-sex sexual relations between consenting adults;
- Include in national legislation, including as part of the review of the Constitution, sexual orientation and gender identity as prohibited grounds of discrimination, and to establish and implement policies and initiatives to address discrimination based on sexual orientation or gender identity, in particular in the workplace;
- Engage with civil society organizations working on behalf of lesbian, gay, bisexual, transgender and intersex persons to implement human rights education and anti-discrimination awareness-raising programs.

The death penalty

- Abolish the death penalty irrespective of arguments of utility and popularity;
- Establish an official moratorium on executions with a view to abolishing the death penalty, as provided by five UN General Assembly resolutions, including most recently UN General Assembly resolution 69/186 of 18 December 2014;
- Support calls to abolish the death penalty nationally and internationally, including by voting in favour of future UN General Assembly resolutions on a moratorium on the use of the death penalty;
- Ratify without reservations the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at abolition of the death penalty.



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